

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NUMBER SP0600-04-1331		<b>PAGE 1 OF 24</b>	
2. CONTRACT NUMBER		3. AWARD/EFFECTIVE DATE		4. ORDER NUMBER		5. SOLICITATION NUMBER SP0600-05-R-0019	
6. SOLICITATION ISSUE DATE <b>December 27, 2004</b>		7. FOR SOLICITATION INFORMATION CALL:  <b>Lisa Robert (703) 767-8533</b> <b>Andrea Kincaid (703) 767-8669</b>		b. TELEPHONE NUMBER (no collect calls) Phone: See Block 7A Fax: (703) 767-8757		8. OFFER DUE DATE/LOCAL TIME  <b>See Page 2</b>	
9. ISSUED BY  <b>Defense Energy Support Center</b> <b>Electricity Branch, Installation Energy</b> <b>8725 John J. Kingman Road, Suite 4950</b> <b>Fort Belvoir, VA 22060-6222</b> <b>Buyer/Symbol: Lisa Robert/DESC-APE</b> <b>Email: Lisa.Robert@dla.mil</b> <b>Phone: (703) 767-8533</b>		CODE  <b>SP0600</b>		10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE % FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> SMALL DISADV BUSINESS  <input type="checkbox"/> 8(A)  <b>NAICS: 221112</b>  <b>SIZE STND: 4 million MWh</b>		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input checked="" type="checkbox"/> SEE SCHEDULE  <input type="checkbox"/> 13a. THIS CONTRACT IS RATED ORDER UNDER DPAS (15 CFR 700)  13b. RATING <b>K</b>  14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP	
15. DELIVER TO  See Schedule		CODE		16. ADMINISTERED BY  <b>See Block 9</b>		CODE	
17a. CONTRACTOR/OFFEROR BIDDER CODE		FACILITY CAGE CODE		18a. PAYMENT WILL BE MADE BY  <b>See Paragraph B of Clause C800</b>		CODE	
17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>		18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM					
19. ITEM NO.		20. SCHEDULE OF SUPPLIES/SERVICES		21. QUANTITY		22. UNIT	
23. UNIT PRICE		24. AMOUNT					
<b>See Attachment III</b>		<b>Various DoD Installations in Maine</b> (Attach additional sheets as necessary)		<b>76,914</b>		<b>MWh</b>	
25. ACCOUNTING AND APPROPRIATION DATA						26. TOTAL AWARD AMOUNT (For Govt. Use Only)	
<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-3, FAR 52.212-4 AND 52.212-5 ARE ATTACHED. ADDENDA <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED. <input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.							
<input checked="" type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <b>1</b> COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS AND CONDITIONS SPECIFIED HEREIN.				<input type="checkbox"/> 29. AWARD OF CONTRACT: REFERENCE _____ OFFER DATED _____ YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: _____.			
30a. SIGNATURE OF OFFEROR/CONTRACTOR				31a. UNITED STATES OF AMERICA (Signature of Contracting Officer)			
30b. NAME AND TITLE OF SIGNER (Type or Print)		30c. DATE SIGNED		31b. NAME OF CONTRACTING OFFICER (Type or Print) <b>ANDREA L. KINCAID</b>		31c. DATE SIGNED	
32a. QUANTITY IN COLUMN 21 HAS BEEN <input type="checkbox"/> RECEIVED <input type="checkbox"/> INSPECTED <input type="checkbox"/> ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED				33. SHIP NUMBER		34. VOUCHER NUMBER	
				<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL		35. AMOUNT VERIFIED CORRECT FOR	
32b. SIGNATURE OF AUTHORIZED GOVT. REPRESENTATIVE		32c. DATE		36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL		37. CHECK NUMBER	
				38. S/R ACCOUNT NO.		39. S/R VOUCHER NO.	
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT		41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER		41c. DATE		40. PAID BY	
				42a. RECEIVED BY (Print)			
				42b. RECEIVED AT (Location)			
				42c. DATE REC'D (YY/MM/DD)		42d. TOTAL CONTAINERS	

**Continuation of SF1449, Block 8:**

Receipt of Offers, Technical and Pricing Data (Attachment III) for **all**

Maine installations are due as follows:

**TECHNICAL DATA (NEEDED BY ALL SUPPLIERS INTENDING TO OFFER ON ANY LINE ITEM):**

Due by **12:00 p.m.**, local Fort Belvoir, VA time on **31 January 2005**:

1. Standard Form 1449
2. Certifications and Representations,
3. Technical/Management Proposal,
4. Past Performance Proposal, and
5. Socioeconomic Proposal
6. Indicative prices of anticipated line items on which an offer will probably be made

**NOTE: ALL EXCEPTIONS MUST BE RECEIVED WITH THE ABOVE TECHNICAL DATA. THE GOVERNMENT RESERVES THE RIGHT NOT TO ACCEPT EXCEPTIONS AFTER THE TECHNICAL DATA DUE DATE.**

**PRICING DATA (Attachment III):**

**All Accounts:** Due by **12:00 p.m.**, local Fort Belvoir, VA time on **15 February 2005**.

**TO VIEW ANY FEDERAL ACQUISITION REGULATION (FAR), OFFERORS MAY USE THE FOLLOWING WEBSITE: <http://www.acqnet.gov/far/current/html/FARMTOC.html>.**

For all Small Business issues, please call Ms. Kathy Williams at 703-767-9465 (Email: [Kathy.S.Williams@dla.mil](mailto:Kathy.S.Williams@dla.mil)) or Ms. Valerie Oliver at 703-767-9686 ([Valerie.Oliver@dla.mil](mailto:Valerie.Oliver@dla.mil) )

**PART I****1. SUPPLIES TO BE FURNISHED**

- (a) The contract quantities shown below are best estimates only of the Government's requirements for the contract period. The Contractor shall furnish all labor, material, tools, equipment, and incidentals to supply and deliver electricity as defined in the STATEMENT OF WORK/SPECIFICATIONS clause. Contract performance shall be accomplished in accordance with the terms and conditions of this contract.
- (b) As used throughout this solicitation/contract, **kWh** means kilowatt-hour, **kW** means kilowatt, **MPUC** means Maine Public Utilities Commission, **MPS** means Maine Public Service Company, **BHE** means Bangor Hydro Electric Company, **CMP** means Central Maine Power Company, **NPCC** means Northeast Power Coordinating Council, **MACC** mean Mid-Atlantic Coordinating Council, and **USD** means U.S. Dollar.
- (c) The Government is soliciting offers for supply and transmission of electricity and ancillary services for the following locations:

Line Items	Location	Number of Accounts	Spreadsheet(s)	Quantities
2300	DFAS Limestone	1	DFAS Limestone 2300.xls	3,680,600 kWh
2301	Naval Air Station Brunswick	14	NAS Brunswick 2301.xls	33,692,115 kWh
2302	Portsmouth Naval Shipyard	1	Portsmouth Naval 2302.xls	32,221,000 kWh
2304	USAF OTH-Radar	2	USAF 2304.xls	1,428,750 kWh
2305	US Coast Guard	40	USCG 2305	5,741,610 kWh
2306	Custom and Border Protection	6	CBP Accounts.xls	150,224 kWh

- (d) The Government is soliciting offers for the following delivery periods:

DFAS Limestone Account: March 2005 meter read through December 2006 meter read.  
 All other Accounts: March 2005 meter read through February 2006 meter read.

Specifics for each line item will be provided with each individual Installation Data Sheet. The information to be provided will include: Line Item Number, Location, Local Electric Utility, Current Tariff Rate, Utility Account Number, Contract Performance Period, Monthly Consumption and Demand Data, and Interval Data. Please use the following link to access the information: <http://www.desc.dla.mil/DCM/DCMSolic.asp?SolicID=818>.

- (e) The Government is soliciting offers on a Firm Fixed, Requirements type unit price basis for electricity and transmission to the point of receipt, as specified in this solicitation.
- (f) Offerors may submit prices on all, some or none of the line items contained in the solicitation and may do so on a stand-alone basis and/or as one or more combinations of all-or-none offers (see Attachment III). If an offeror chooses to submit more than one all-or-none offer, they may do so by submitting a separate Attachment III for each.
- (g) The Government is soliciting unit prices consistent with, and reflecting the structure of, the shopping credits established in the applicable tariffs. The following symbols have been established for the applicable line items:
- |                                |                               |                             |
|--------------------------------|-------------------------------|-----------------------------|
| (onss) Summer Season On-Peak   | (inss) Summer Season Shoulder | (onns) Non-Summer On Peak   |
| (offss) Summer Season Off-Peak | (innns) Non-Summer Shoulder   | (offns) Non Summer Off Peak |
- (ns) Non-Summer Season  
 (ss) Summer Season  
 Note: To be consistent with existing utility tariff

(DESC 52.207-9F76)

B1.08 (AUG 2002)

**SPECIAL NOTES**

1. In the event of a contract award, the supplier agrees to provide DESC with copies of the invoice for each account under contract, on a monthly basis, for the entire delivery period. In the event the supplier does not generate the invoice, it shall provide DESC with the load data information forwarded to it by the incumbent utility for each account under contract, on a monthly basis, for the entire delivery period. Any costs associated with providing DESC with this information shall be the responsibility of the Contractor and shall be included as part of its offered price.
2. Award will not be made to any aggregate or all-or-none offer unless the offer prices for each installation is less than that of the Maine Standard Offer Service price under the applicable utility.

**2. STATEMENT OF WORK/SPECIFICATIONS (ELECTRICITY)**

(a) **STATEMENT OF WORK.** The Contractor shall furnish all labor, material, tools, equipment, and incidentals to supply and deliver electricity and any ancillary and/or incidental services required to deliver electricity to the point of delivery and for the scheduling and coordination of the delivery of electricity to the service point for each account under the contract. All quantities ordered by the Government shall be considered firm and guaranteed for delivery by the Contractor to the delivery point, and for scheduling and coordinating, for ultimate delivery to the service point for each account. Charges incurred as a result of the Contractor's failure to abide by the terms of the applicable Retail Access rules and/or the UDC Service Agreement shall be the responsibility of the Contractor. With the exception of any and all transmission and distribution related charges payable by the Government to the UDC under the applicable tariff for each account (unless said charges are the result of the Contractor's failure to perform in accordance with the contract), the Contractor is responsible for all costs associated with deliveries to the delivery point and the scheduling and coordination for delivery of electricity to the service point for each account under the contract. The Contractor shall be liable for any and all penalties and/or additional costs assessed to the Government for the nondelivery of the firm requirements in accordance with paragraphs (f) and (m) of the CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS clause.

(b) **INVOICE AND PAYMENT.** The Government prefers Consolidated UDC Billing for all accounts awarded as a result of this solicitation. The contractor must submit all invoice information to the appropriate UDC under the terms of the applicable Retail Access Rule, in accordance with terms of its UDC Service Agreement. All invoicing shall be based on metered quantities at the service point for each account. The contractor may only invoice for charges allowed under the terms and conditions of the contract. Any costs associated with Consolidated UDC Billing shall be the responsibility of the Contractor and shall be included as part of the offered price.

For the purposes of this contract, the address designated to receive invoices in accordance with FAR 52.212-4 CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (MAY 1999), paragraph (g), is considered to be that of the UDC in the service territory of which each account is located (i.e. the appropriate locations at Maine Public Service, Central Maine Power and Bangor Hydro).

For the purposes of this contract, the invoice to which reference is made in FAR 52.212-4, CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (MAY 1999), paragraph (i) refers to the energy portion of the Consolidated UDC Invoice forwarded to the Government for payment by the UDC.

For the purposes of this contract, the payment to which reference is made in FAR 52.212-4, CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (MAY 1999), paragraph (i) refers to the payment made by the Government against the Consolidated UDC Invoice.

The paying offices for each installation awarded under any resultant contract will be identified below:

**Installation****Paying Office**

(c) **METERING AND METER READING SERVICES.** Will be provided by the incumbent UDC for each account.

(d) **SCHEDULING AND SUPPLY MANAGEMENT.** It shall be the Contractor's responsibility to schedule deliveries for all accounts awarded for the time period specified herein. The Contractor shall be responsible for supply management and overall coordination of production, transmission, and distribution of electrical power to the service point of each account identified in the contract. As such, the Contractor shall be knowledgeable of and responsible for imbalance policies, transmission grid losses, transmission congestion charges and UDC line losses for the delivery of electricity to the service point of each account under the contract. The Contractor must meet all applicable State and Federal requirements necessary to successfully complete any contract. The Government will not pay any costs associated with the Contractor's failure to deliver electrical power at the delivery point sufficient to meet the demand at the service point of each account under the contract or to schedule and coordinate for the delivery of electricity to each service point.

(e) **RECORD KEEPING.** The Contractor shall keep records of data required to bill in accordance with the utility tariff of each account (demand and consumption data) in an electronic database format compatible with Microsoft Access or a spreadsheet format compatible with Microsoft Excel. These records shall be made available to DESC or to any party designated by DESC as authorized to request this data. In the event that the Contractor maintains records on demand and consumption data in addition to that required to bill in accordance with the utility tariff, said data shall also be made available to DESC or to any party designated by DESC as authorized to request this data.

(f) **ORDERING.** Orders shall be made in accordance with the ELECTRICITY ORDERING PROCEDURES clause.

(g) **POINT OF DELIVERY.** For this solicitation and any resulting contract, the delivery point for each account is defined as an interconnect with the UDC owned or controlled transmission or distribution systems.

(h) **SERVICE POINT.** For this solicitation and any resulting contract, the service point is defined as the meter(s) indicated for each account awarded as described in Attachment III, Block 2.

(i) **SPECIFICATIONS.** The electricity provided under this contract shall conform to the tariff of the transmitting and/or distributing utility at the delivery point(s) specified in the Schedule.

(DESC 52.246-9F25)  
C800 (DESC JAN 2003)

### 3. REQUIRED CENTRAL CONTRACTOR REGISTRATION

(a) **DEFINITIONS.** As used in this clause--

(1) **Central Contractor Registration (CCR) database** means the primary Government repository for Contractor information required for the conduct of business with the Government.

(2) **Commercial and Government Entity (CAGE) code** means—

- (i) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or
- (ii) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an "NCAGE code."

(3) **Data Universal Numbering Systems (DUNS) number** means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

(4) **Data Universal Numbering System + 4 (DUNS+4) number** means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11 of the Federal Acquisition Regulation) for the same parent concern.

(5) **Registered in the CCR database** means that—

- (i) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database;
- (ii) The Contractor's CAGE code is in the CCR database; and
- (iii) The Government has validated all mandatory data fields and has marked the records "**Active.**"

(b) (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS+4” followed by the DUNS or DUNS+4 number that identified the offeror’s name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

(i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business name.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company physical street address, city, state and Zip Code.

(iv) Company mailing address, city, state and Zip Code (if separate from physical).

(v) Company telephone number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering.

Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government’s reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g) (1) (i) If a contractor has legally changed its business name, “doing business as” name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day’s written notification of its intention to—

(A) Change the name in the CCR database;

(B) Comply with the requirements of Subpart 42.12 of the FAR; and

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer.

The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor’s CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the EFT clause of this contract.

(h) Offerors and contractors may obtain information on registration and annual confirmation requirements via the Internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

(FAR 52.204-7/DFARS 252.204-7004)

II.07 (OCT 2003/NOV 2003)

**4. TAILORED PARAGRAPHS OF FAR CLAUSE 52.212-4 CONTRACT TERMS AND CONDITIONS. ALL OTHER INSTRUCTIONS INCLUDED IN FAR 52.212-4 ARE HEREBY INCORPORATED BY REFERENCE (SEE BLOCK 27A OF STANDARD FORM 1449).**

(k) Taxes

- (1) The contract price includes all applicable Federal, State, and Local taxes and duties in effect at contract signing.
- (2) After-imposed Federal, State or Local tax, as used in this clause, means any new or increased Federal, State or Local excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced, or whose computation was later changed during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax, other employment taxes, or income tax. The contract price shall be increased by the amount of any after-imposed Federal, State, or Local tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal, State, or Local excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.
- (3) After-relieved Federal, State or Local tax, as used in this clause, means any amount of Federal, State or Local excise tax or duty, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax, other employment taxes, or income tax. The contract price shall be decreased by the amount of any after-relieved Federal, State, or Local tax.

**(l) TERMINATION FOR THE GOVERNMENT'S CONVENIENCE.**

(1) In accordance with all applicable state and local distribution company regulations, the Government reserves the right to terminate this contract with respect to any or all contract quantities, for its sole convenience. In the event of such termination, the Contractor shall cease deliveries hereunder with respect to such terminated contract quantities on the first allowable date subsequent to such termination according to the applicable tariff sheets of the local distribution company. The Contractor shall cause any and all of its suppliers and subcontractors to cease work related to this contract prior to the date and time specified by the Government for the termination. Subject to the terms and conditions of this contract, the Contractor shall be paid for electricity delivered under the contract prior to the date and time specified by the Government for the termination of any or all contract quantities plus any additional energy the Contractor is required to deliver for the Government's account under applicable location distribution company tariff sheets.

(2) In the event of a termination for convenience, the Government shall pay the Contractor the termination value, if positive, calculated by the following formula:

$$A = \Sigma (B - C) * D$$

A = Termination value.

B = Award price for each usage period for each season.

C = Forward market bid price, defined herein.

D = Contract quantity for each usage period for each season (based on data listed in the Installation Data Sheets).

(3) If the termination value on the date of termination is negative, the Contractor shall not be entitled to any payment.

(4) The forward market bid price shall be defined as the average market price per MWh for a 50 MWh block of on-peak and off-peak (5x16) energy for the relevant delivery location Maine-NEPOOL for a term equal to the remaining term of the contract. The forward market price will be determined by the Contractor in a commercially reasonable manner, which may include polling energy brokers on the date of termination. The Government shall have the right to reasonably audit forward market price data obtained by the Contractor.

(5) In the event that the Government elects to terminate on a date other than the end of a month or at the end of the summer/non-summer season, as defined by applicable local distribution company and tariff, the estimated remaining contract quantity will be calculated by prorating the partial month or partial season of service.

(6) The Government's liability shall be limited to the termination value calculated in accordance with the provisions of this clause.

- (m) **TERMINATION FOR CAUSE.** The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.
- (n) **Title.** Title to the electricity supplied by the Contractor under this contract shall pass to the Government upon delivery at the delivery point specified in the Schedule. The Contractor warrants that the electricity delivered to the Government under this contract will be free and clear of all liens, claims and encumbrances arising prior to delivery at the delivery point specified in the Schedule.
- (o) **Warranty.** The Contractor warrants and implies that the electricity delivered hereunder conforms to the tariff of the transmitting and/or distributing utility at the delivery point specified in the Schedule.

FAR 52.212-4  
11.03-11 (JUN 2004)

## 5. NOTIFICATION OF TARIFF/RATE CHANGES

The Contractor shall give the Contracting Officer and the installation written notice of the filing of an application for transportation tariff/rate changes and/or the scheduling of a tariff/rate hearing that would impact installations within one working day of receiving such application or notification of such hearing.

DESC H800 (JAN 1998)

## 6. EXTENSION PROVISIONS

- (a) For line items priced as other than Firm Fixed-Price, the performance period can be extended for up to six months by mutual agreement of the parties.
- (b) For line items priced as Firm-Fixed-Price, the Government may request extension of performance, one or more times, at the existing fixed price and in accordance with the existing contract terms and provisions, so long as the total additional performance does not exceed six months. If the Contractor declines to extend at the existing price, the Government may propose a new firm-fixed-price for the extension. Extension of Firm-Fixed-Price line items must be accomplished by agreement of all parties (bilateral modification). Failure to agree will result in expiration of the contract at the end of the current performance period.

(DESC 52.217-9F30)  
DESC I209.15 (NOV 2003)



## 7. ELECTRICITY ORDERING PROCEDURES

For the purposes of this contract, the instantaneous load at the service point, as described in the individual Installation Data Sheets, shall constitute an order for electricity to be furnished under this contract.

(DESC 52.216-9FD6)  
I800 (DESC FEB 2002)

## 8. REQUIREMENTS

(a) This is a requirements contract for the supplies or services specified, and effective for the period stated in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the ORDERING clause. Subject to any limitations in the ORDER LIMITATIONS clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the ORDERING clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.

(d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.

(e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.

(f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; PROVIDED, that the Contractor shall not be required to make any deliveries under this contract after See Individual Installation Delivery Period.

(FAR 52.216-21)  
I84 (OCT 1995)

## 9. TYPE OF CONTRACT

The Government contemplates award of a **Firm Fixed Price, Requirements Type** contract resulting from this solicitation.

(FAR 52.216-1)  
L74 (APR 1984)

## 10. REGULATORY CHANGES

(1) The contract price includes all applicable ISO/RTO charges to be in effect at contract signing.

(2) After-imposed ISO/RTO charges, as used in this clause, means any new ISO/RTO charges subject to regulation that were exempted or excluded on the contract date but whose exemption was later revoked, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial or administrative action taking effect after the contract date. The contract price shall be increased by the amount of any after-imposed ISO/RTO charge (with no mark up), provided the Contractor warrants in writing that no amount for such newly after-imposed ISO/RTO charge was included in the contract price, as a contingency reserve or otherwise.

(3) After-relieved ISO/RTO charges, as used in this clause, means any amount of ISO/RTO charges subject to regulation, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial or

administrative action taking effect after the contract date. The contract price shall be decreased by the amount of any after-relieved ISO/RTO charges.

## PART II (INSTRUCTIONS AND EVALUATION)

### 1. INSTRUCTIONS TO OFFERORS (ELECTRICITY)

#### (a) EVIDENCE OF RESPONSIBILITY.

(1) An offeror must possess, at a minimum, six months of experience (within the past two years) providing supply and transportation (firm and/or interruptible) of electricity to wholesale or retail customers. If the offeror does not possess at least six months of experience, it will not be considered for award.

(2) An offeror shall provide evidence that it is authorized to conduct business by each state's regulatory body having jurisdiction over the state's electric industry prior to award of any contract for solicited requirements.

(3) The offeror must possess, or demonstrate the ability to obtain, transmission service agreements in the company's name for the points of receipt specified in the Schedule. Failure to document the ability to obtain necessary transmission service agreements shall render the offeror nonresponsive.

(4) The evidence of responsibility required above is in addition to the general responsibility criteria set forth in FAR 9.104.

(5) The Government may conduct preaward surveys in accordance with FAR 9.106 and obtain, from available sources, relevant information concerning the offeror's ability to satisfy the responsibility standards stated in this provision and FAR Part 9.

#### (b) OFFEROR'S PROPOSAL.

(1) An offeror must propose to supply the total line item quantity for the line items identified in the Schedule. Failure to offer the total line item quantity will preclude Government evaluation and award to the offeror for the line items. If an offeror chooses to submit more than one offer, it may do so by submitting a separate price submittal for each. Offers based on other pricing mechanism or alternative methods of supplying electricity may be considered.

(2) **PART I - EXECUTED RFP.** The original Part I shall contain original signatures. The executed RFP shall consist of the following:

(i) Standard Form 1449, Solicitation, Contract, Order for Commercial Items, with Blocks 17, and 30A through 30C completed. By completing Blocks 30A through 30C the offeror agrees to the terms and conditions of the RFP.

(ii) The Offeror Representations and Certifications.

(iii) The **completed** Attachment III. Offerors are requested to submit offers on diskette or by email ([eteam@desc.dla.mil](mailto:eteam@desc.dla.mil)) and by hard copy. To accurately evaluate offered prices, no alterations of Attachment III are allowed. Offerors submitting an alternative proposal shall not use Attachment III as part of their submission.

(iv) **Other Required Documents.** The offeror shall submit all documents required by the terms and conditions of the RFP, such as subcontracting plans (see Attachment IV) and supply commitment letters.

(v) **FACSIMILE PROPOSALS** Pursuant to the FACSIMILE PROPOSALS provision, the offeror must submit a hard copy of the original signed offer, which must be received within 3 working days of the opening/closing date.

(3) **PART II - TECHNICAL MANAGEMENT SUBMISSION.** To substantiate meeting general and special responsibility criteria and the evaluation criteria stated in the RFP, the offeror shall submit the following:

(i) The most recent annual report (a web address is acceptable);

(ii) The most recent 10K report (a web address is acceptable);

(iii) A brief description of the risk management practices to be employed during contract performance;

(iv) A brief description of the sources of working capital for the offeror's power marketing activities;

(v) Résumés of the key personnel who would be assigned to administer a resultant contract;

(vi) **State Marketing License data.** Date of Application and Date of Approval;

(vii) The documentation required in paragraph (a) of this clause; and

(viii) A description of the offeror's supply portfolio/proposed sources of supply and its access to transmission required to supply electricity to end-users in regions and control areas listed below.

(A) The NERC Region Name is comprised of the Northeast Power Coordinating Council (NPCC) falling within the Continental U.S.

(B) Identify the proposed sources of supply in the following region: Northeast Power Coordinating Council (NPCC).

For the region--

(a) Describe whether electricity would be provided from generation owned by the offeror, obtained under long-term contracts, and/or obtained under short-term contracts/spot market purchases;

(b) Identify the approximate uncommitted quantities from specific generation assets and/or supply contracts that would be available under resultant contracts;

(c) Describe and identify additional quantities that the offeror can demonstrably obtain for delivery under resultant contracts.

(ix) The offeror is required to complete the Supplemental Data form (Attachment I) which summarizes the information requested in (viii) above.

(x) An offeror's proposal must be complete with regard to this provision as well as all other requirements of the solicitation. Offerors are advised to submit proposals that are fully and clearly acceptable without additional information or explanation. Failure to provide a complete Technical Experience submission shall make an offer unacceptable and ineligible for award.

(4) **PART III - PAST PERFORMANCE.** Information collected in the Experience with End-users form (Attachment II) will be used to contact offeror's customers and inquire about the offeror's past performance. By submitting this form, the offeror agrees to permit the Government's representatives to contact the customers listed and inquire about the past performance of the offeror. The offeror will be given an opportunity to address unfavorable reports of past performance, and the offeror's response, or lack thereof, will be taken into consideration. The offeror's recent contracts will be examined to ensure that corrective measures have been put in place to prevent the recurrence of past performance problems. Prompt actions taken by the offeror to correct performance problems will be a reflection of management concern for customer satisfaction. However, such action may not mitigate all negative performance trends. Other past performance data available to the Government will be used in the evaluation of past performance. Also, describe any past efforts to subcontract with small businesses and/or Historically Black Colleges and Universities/Minority Institutions. Include, for past efforts (within 3 years of the closing date of this solicitation), a statement identifying highly successful efforts or any regulatory or subcontracting plan noncompliance.

(5) **PART IV - COMMERCIAL SUBCONTRACTING PLAN.** The Contractor shall submit a Commercial Subcontracting Plan in accordance with FAR Part 19.704 (see Attachment IV).

(6) **PART V - SOCIOECONOMIC SUBMISSION.** (CLAUSE L7 (DESC DEC 2001))

(a) Offerors shall submit a plan that demonstrates their commitment to providing subcontracting opportunities to small businesses and Historically Black Colleges/Universities and Minority Institutions (HBCUs/MIs). All offerors regardless of business size are required to provide socioeconomic commitment. Small businesses will be credited for the dollar value/percentage of the work they perform as if the work were subcontracted to a small business concern. Work performed by a small business in-house shall be identified in the socioeconomic plan.

(b) As part of the plan, the offeror shall include--

(1) A description of the efforts the company will make to ensure that small businesses and/or HBCUs/MIs will have equal opportunity to compete for subcontracts under any resulting contract.

(2) A description of the offeror's current and planned proposed range for services, supplies, and any other support that will be provided by small businesses and/or HBCUs/MIs.

(3) The specific names of subcontractors to the extent they are known.

(4) A description of any future plans the company has for developing additional subcontracting opportunities for small businesses and/or HBCUs/MIs during the contract period.

(5) Identification of the portion of the offeror's proposal, as a percentage of dollars, that will be subcontracted to small businesses and/or HBCUs/MIs.

(6) The type of performance data the offeror would accumulate and provide to the Contracting Officer regarding their support of small businesses and/or HBCUs/MIs during the period of contract performance.

(7) The name and title of the individual principally responsible for ensuring company support to such firms.

(DESC 52.215-9F68)  
L801 (DESC JAN 2003)

## 2. EVALUATIONS

- (a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

- (i) Technical Capability
  - a) Supply Portfolio
  - b) Industry Experience
- (ii) Past Performance
- (iii) Price
- (iv) Socioeconomic Proposal

Technical Capability and Past Performance are equally important and each is more important than price. The Socioeconomic Proposal is significantly less important than price. When combined these three evaluation factors are significantly more important than price.

- (b) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

FAR 52.212-2  
M2.11 (JAN 2005)

## 3. PRICE EVALUATION (ELECTRICITY)

Price evaluations will be conducted by comparing the estimated savings to be obtained by the Government under each offer received. The basis of calculating the estimated savings will be a comparison of the anticipated total delivered cost under the offer received with the cost to the Government under the applicable tariffs for each line item.

**NOTE: For purposes of price evaluation only, the savings estimates described above will be determined using the Maine Standard Offer Service price, per Utility, which will be in effect during the period of performance.**

(DESC 52.219-9F07)  
M800 (DESC JUL 2002)

## 4. SOCIOECONOMIC EVALUATION

The relative merits of the Socioeconomic Proposal will be evaluated based on the degree to which an offeror's proposal demonstrates the commitment to use, in performance of the offered requirements, small businesses and/or Historically Black Colleges/Universities or Minority Institutions (HBCUs/MIs).

**NOTE:** The offeror's proposals for socioeconomic support will be made a part of any resulting contract for use in determining how well the Contractor has adhered to its socioeconomic plan. This plan will be monitored by the Small Business Office of the Defense Energy Support Center as a means of assisting the Contracting Officer in determining how well the Contractor has in fact performed. This determination will then be used as a consideration prior to option exercise and future source selection decisions. Performance on prior contracts in subcontracting with and assisting small businesses and HBCUs/MIs will be part of past performance evaluation.

(DESC 52.215-9FB6 )  
M7 (DESC APR 2003)

## 5. AUTHORIZED NEGOTIATORS

The first page of the offer must show names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate with the Government on the offeror's behalf in connection with this solicitation. The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations.

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K33.01 (DESC JAN 1998)

## 6. STATUTES AND EXECUTIVE ORDERS

**NOTE: 52.219-23 NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS IS APPLICABLE TO NON-DOD LINE ITEMS ONLY.**

### CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS -- COMMERCIAL ITEMS

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clause, which is incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

52.233-3, Protest After Award (31 U.S.C. 3553).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

**[Contracting Officer shall check as appropriate.]**

[ X ] (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Jul 1995), with Alternate I (Oct 1995)(41 U.S.C. 253g and 10 U.S.C. 2402).

[ X ] (3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 1999) (if the offeror elects to waive the preference, it shall so indicate in its offer.) (15 U.S.C. 657a).

[ X ] (7) 52.219-8, Utilization of Small Business Concerns (Oct 2000) (15 U.S.C. 637(d)(2) and (3)).

[ X ] (8) (i) 52.219-9, Small Business Subcontracting Plan (Jan 2002) (15 U.S.C. 637 (d)(4)).

[ ] (ii) Alternate I (Oct 2001) of 52.219-9.

[ ] (iii) Alternate II (Oct 2001) of 52.219-9.

[ X ] (10) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Jun 2003) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

[ ] (ii) Alternate I (Jun 2003) of 52.219-23.

[ X ] (11) 52.219-25, Small Disadvantaged Business Participation Program – Disadvantaged Status and Reporting (Oct 1999) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

[ X ] (14) 52.222-19, Child Labor – Cooperation with Authorities and Remedies (Sep 2002) (E.O. 13126).

[ X ] (15) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

[ X ] (16) 52.222-26, Equal Opportunity (Apr 2002) (E.O. 11246).

[ X ] (17) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212).

[ X ] (18) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).

[ X ] (19) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212).

[ X ] (29) 52.232-33, Payment by Electronic Funds Transfer – Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).

(d) **COMPTROLLER GENERAL EXAMINATION OF RECORD.** The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, AUDIT AND RECORDS -- NEGOTIATION.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the DISPUTES clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (i) through (vi) of this paragraph, in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause--

(i) 52.219-8, Utilization of Small Business Concerns (Oct 2000) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (Apr 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans, (Dec 2001) (38 U.S.C. 4212).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).

(v) 52.222-41, Service Contract Act of 1965, as Amended (May 1989), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, et. seq.).

(vi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Apr 2003) (46 U.S.C. Appx. 1241 and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

FAR 52.212-5  
I1.04 (OCT 2003)

## **7. CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (OCT 2003)**

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause which, if checked, is included in this contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

☒ 52.203-3                      Gratuities (APR 1984) (10 U.S.C. 2207)

(b) The Contractor agrees to comply with any clause that is checked on the following list of Defense FAR Supplement clauses which, if checked, is included in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components.

☒ 252.219-7003              Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (APR 1996) (15 U.S.C. 637).

☒ 252.225-7001              Buy American Act and Balance of Payments Program (APR 2003) (41 U.S.C. 10a-10d, E.O. 10582).

[ X ] 252.225-7036 Buy American Act – North American Free Trade Agreement Implementation Act – Balance of Payments Program (APR 2003); ( [ ] Alternate (APR 2003)) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).

(DFARS 252.212-7001)

11.05 (JUNE 2004)

**8. INSTRUCTIONS (PARAGRAPHS) THAT HAVE BEEN TAILORED TO BE MORE CONSISTENT WITH COMMERCIAL PRACTICE UNDER FAR Part 52.212-1. ALL OTHER INSTRUCTIONS INCLUDED IN FAR 52.212-1 ARE HEREBY INCORPORATED BY REFERENCE (SEE BLOCK 27A OF STANDARD FORM 1449).**

- (a) North American Industry Classification System (NAICS) code and small business size standard. The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish electricity which it did not itself generate, is 500 employees.
- (c) Period for acceptance of offers. The offeror agrees to hold the prices in its offer firm for **48 hours** from the date specified for receipt of offers.
- (g) Contract award (not applicable to Invitation for Bids). The Government intends to evaluate offers and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial offer should contain the offeror's best terms from a cost or price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. If the Contracting Officer determines that the number of offers that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of offers in the competitive range to the greatest number that will permit efficient competition among the most highly rated offers. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received. It should be noted that the Government reserves the right to reject all offers if none of the offers received results in a delivered cost of electricity lower than the delivered cost under the applicable "standard offer" or established default rate under state and/or local regulation.
- (h) Multiple awards. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government will not make an award on any item for less than the quantity specified.

FAR 52.212-1

L2.05 (JAN 2004)

**9. DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY**

(a) Definitions. As used in this provision-

- (1) "Government of a terrorist country" includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.
- (2) "Terrorist country" means a country determined by the Secretary of State, under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, terrorist countries include: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.
- (3) "Significant interest" means-
  - (i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;
  - (ii) Holding a management position in the firm, such as a director or officer;

- (iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;(iv)  
Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or
  - (v) Holding 50 percent or more of the indebtedness of a firm.
- (b) Prohibition on award. In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.
- (c) Disclosure. If the government of a terrorist country has a significant interest in the Offeror or a subsidiary of the Offeror, the Offeror shall disclose such interest in an attachment to its offer. If the Offeror is a subsidiary, it shall also disclose any significant interest the government of a terrorist country has in any firm that owns or controls the subsidiary. The disclosure shall include-
- (1) Identification of each government holding a significant interest; and
  - (2) A description of the significant interest held by each government.

DFARS 252.209-7001(MAR 1998)

## 10. AGENCY PROTESTS

Companies protesting this procurement may file a protest (1) with the Contracting Officer, (2) with the General Accounting Office, or (3) pursuant to Executive Order No. 12979, with the Agency for a decision by the Activity's Chief of the Contracting Office. Protests filed with the Agency should clearly state that they are an "Agency Level Protest under Executive Order No. 12979." (**NOTE:** DLA procedures for Agency Level Protests filed under Executive Order No. 12979 for a higher level decision on the initial protest than would occur with a protest to the Contracting Officer; this process is not an appellate review of a Contracting Officer's decision on a protest previously filed with the Contracting Officer.) Absent a clear indication of the intent to file an agency level protest, protests will be presumed to be protests to the Contracting Officer.

DLAD L5.01-1 (SEP 1999)



### PART III

#### OFFEROR REPRESENTATIONS AND CERTIFICATIONS - COMMERCIAL ITEMS (ALTERNATES I/II)

(a) **DEFINITIONS.** As used in this provision--

(1) **Emerging small business** means a small business concern whose size is no greater than 50 percent of the numerical size standard for the NAICS code designated.

(2) **Forced or indentured child labor means** all work or service—

(i) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(ii) Performed by any person under the age of 18 pursuant to a contract, the enforcement of which can be accomplished by process of penalties.

(3) **Service-disabled veteran-owned small business concern—**

(i) Means a small business concern—

(A) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(B) The management and daily business operations are controlled by one or more service-disabled veterans or, in the base of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(ii) **Service-disabled veteran** means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

(4) **Small business concern** means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

(5) **Veteran-owned small business concern means a small business concern—**

(i) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly-owned business, not less than 51 percent of the stock of which is owned by one or more veterans, and

(ii) The management and daily business operations of which are controlled by one or more veterans.

(6) **Women-owned business concern** means a concern that is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(7) **Women-owned small business concern** means a small business concern--

(i) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) Whose management and daily business operations are controlled by one or more women.

(b) **TAXPAYER IDENTIFICATION NUMBER (TIN) (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)**

(1) All offerors must submit the information required in paragraphs (b)(3) through (b)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) **TAXPAYER IDENTIFICATION NUMBER (TIN).**

☐ TIN: \_\_\_\_\_

☐ TIN has been applied for.

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of a Federal government;

**(4) TYPE OF ORGANIZATION.**

- ☐ Sole proprietorship;  
☐ Partnership;  
☐ Corporate entity (not tax-exempt);  
☐ Corporate entity (tax-exempt);  
☐ Government entity (Federal, State, or local);  
☐ Foreign government;  
☐ International organization per 26 CFR 1.6049-4;  
☐ Other: \_\_\_\_\_.

**(5) COMMON PARENT.**

☐ Offeror is not owned or controlled by a common parent.

☐ Name and TIN of common parent:

Name \_\_\_\_\_

TIN \_\_\_\_\_

(c) Offerors must complete the following representations when the resulting contract is to be performed in the United States or its outlying areas. Check all that apply.

**(1) SMALL BUSINESS CONCERN.** The offeror represents as part of its offer that it--

- ☐ is  
☐ is not

a small business concern.

**(2) VETERAN-OWNED SMALL BUSINESS CONCERN. (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.)** The offeror represents as part of its offer that it--

- ☐ is  
☐ is not

a veteran-owned small business concern.

**(3) SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERN. (Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.)** The offeror represents as part of its offer that it--

- ☐ is  
☐ is not

a service-disabled veteran-owned small business concern.

**(4) SMALL DISADVANTAGED BUSINESS CONCERN. (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.)** The offeror represents, for general statistical purposes, that it--

- ☐ is

☐ is not

a small disadvantaged business concern as defined in 13 CFR 124.1002.

**(5) WOMEN-OWNED SMALL BUSINESS CONCERN. (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.)** The offeror represents that it--

☐ is

☐ is not

a woman-owned small business concern.

**NOTE: Complete paragraphs (c)(6) and (c)(7) only if this solicitation is expected to exceed the simplified acquisition threshold.**

**(6) WOMEN-OWNED BUSINESS CONCERN (OTHER THAN SMALL BUSINESS CONCERN). (Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.)** The offeror represents that it -

☐ is

a women owned business concern.

**(7) TIE BID PRIORITY FOR LABOR SURPLUS AREA CONCERNS.** If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price.

**(8) SMALL BUSINESS SIZE FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM AND FOR THE TARGETED INDUSTRY CATEGORIES UNDER THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.** (Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.)

**(i) (Complete only for solicitations indicated in an addendum as being set-aside for emerging small businesses in one of the four designated industry groups (DIGs)).** The offeror represents as part of its offer that it--

☐ is

☐ is not

an emerging small business.

**(ii) (Complete only for solicitations indicated in an addendum as being for one of the targeted industry categories (TICs) or four designated industry groups (DIGs)).** The offeror represents as follows:

(A) The offeror's number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or

(B) The offeror's average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

(Check one of the following:)

NUMBER of EMPLOYEES

☐ 50 or fewer

AVERAGE ANNUAL GROSS  
REVENUES

☐ \$1 million or less

- |                                      |  |
|--------------------------------------|--|
| <input type="checkbox"/> 51 - 100    | <input type="checkbox"/> \$1,000,001 - \$2 million   |
| <input type="checkbox"/> 101 - 250   | <input type="checkbox"/> \$2,000,001 - \$3.5 million |
| <input type="checkbox"/> 251 - 500   | <input type="checkbox"/> \$3,500,001 - \$5 million   |
| <input type="checkbox"/> 501 - 750   | <input type="checkbox"/> \$5,000,001 - \$10 million  |
| <input type="checkbox"/> 751 - 1,000 | <input type="checkbox"/> \$10,000,001 - \$17 million |
| <input type="checkbox"/> Over 1,000  | <input type="checkbox"/> Over \$17 million           |

(9) **(Complete only if the solicitation contains the clause at FAR 52.219-23, NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS, or FAR 52.219-25, SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM - DISADVANTAGED STATUS AND REPORTING, and the offeror desires a benefit based on its disadvantaged status.)**

(i) **GENERAL.** The offeror represents that either--

(A) It--

- ☐ is  
☐ is not

certified by the Small Business Administration as a small disadvantaged business concern and identified, on the date of this representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net), and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

(B) It--

- ☐ has  
☐ has not

submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(ii) **JOINT VENTURE UNDER THE PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS.** The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(9)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture:

\_\_\_\_\_.

(iii) **ADDRESS.** The offeror represents that its address—

- ☐ is  
☐ is not

in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at <http://www.arnet.gov/References/sdbadjustments.htm>. The offeror shall use the list in effect on the date of this solicitation. **Address**, as used in this provision, means the address of the offeror as listed on the Small Business Administration's register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR part 124, subpart B. For joint ventures, **address** refers to the address of the small disadvantaged business concern that is participating in the joint venture.

(10) **HUBZONE SMALL BUSINESS CONCERN.** (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.) The offeror represents as part of its offer that--

(i) It--

- ☐ is  
☐ is not

a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns Maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It--

- ☐ is  
☐ is not

a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. (The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture:

\_\_\_\_\_.)  
Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(11) (Complete if the offeror represented itself as disadvantaged in paragraph (c)(4) or (c)(9) of this provision.) The offeror shall check the category in which its ownership falls:

- ☐ Black American  
☐ Hispanic American  
☐ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).  
☐ Asian-Pacific American (persons with origin from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).  
☐ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).  
☐ Individual/concern, other than one of the preceding.

(d) **REPRESENTATIONS REQUIRED TO IMPLEMENT PROVISIONS OF EXECUTIVE ORDER 11246.**

(1) **PREVIOUS CONTRACTS AND COMPLIANCE.** The offeror represents that--

(i) It--

- ☐ has  
☐ has not

participated in a previous contract or subcontract subject to the EQUAL OPPORTUNITY clause of this solicitation; and

(ii) It--

- ☐ has

[ ] has not

filed all required compliance reports.

(2) **AFFIRMATIVE ACTION COMPLIANCE.** The offeror represents that--

(i) It--

[ ] has developed and has on file

[ ] has not developed and does not have on file

at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR Subparts 60-1 and 60-2), or

(ii) It--

[ ] has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) **CERTIFICATION REGARDING PAYMENTS TO INFLUENCE FEDERAL TRANSACTIONS (31 U.S.C. 1352).** (Applies only if the contract is expected to exceed \$100,000). By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract.

(f) **TRADE AGREEMENTS CERTIFICATE (JAN 2004) (DFARS 252.225-7020).** (Applies only if DFARS clause 252.225-7021, TRADE AGREEMENTS (JAN 2004), is incorporated by reference in this solicitation.) DFARS 252.225-7020 is hereby incorporated by reference in its entirety; only the certification portion is reproduced below.

(1) For all line items subject to the TRADE AGREEMENTS clause of this solicitation, the offeror certifies that each end product to be delivered under this contract, except those listed in subparagraph (2) below, is a U.S.-made qualifying country, designated country, Caribbean Basin country, or Free Trade Agreement country end product.

(2) The following supplies are other nondesignated country end products:

\_\_\_\_\_  
(Insert line item no.)

\_\_\_\_\_  
(Insert country of origin)

(g) **BUY AMERICAN ACT – FREE TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM CERTIFICATE (JAN 2004) (DFARS 252.225-7035).** (Applies only if DFARS clause 252.225-7036, BUY AMERICAN ACT – FREE TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM (JAN 2004) is incorporated by reference in this solicitation.) DFARS 252.225-7035 is hereby incorporated by reference in its entirety; only the certification portion is reproduced below.

(1) For all line items subject to the BUY AMERICAN ACT – FREE TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM clause of this solicitation, the offeror certifies that—

(i) Each end product, except the end products listed in subparagraph (2) below, is a domestic end product; and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror shall identify all end products that are not domestic end products.

(i) The offeror certifies that the following supplies are qualifying country (except Canadian) end products:

\_\_\_\_\_  
(Insert line item number)

\_\_\_\_\_  
(Insert country of origin)

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products:

\_\_\_\_\_

\_\_\_\_\_

(Insert line item number)

(Insert country of origin)

(iii) The following supplies are other foreign end products including end products manufactured in the United States that do not qualify as domestic end products:

---

 (Insert line item number)

---

 (Insert country of origin (if known))

**(h) CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY FOR AWARD (EXECUTIVE ORDER 12549).**

The offeror certifies, to the best of its knowledge and belief, that--

(1) The offeror and/or any of its principals

☐ are

☐ are not

presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and

(2) ☐ have or

☐ have not,

within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

☐ are or

☐ are not

presently indicted for, or otherwise criminally or civilly charged by a government entity with, commission of any of these offenses.

**(i) CERTIFICATION REGARDING KNOWLEDGE OF CHILD LABOR FOR LISTED END PRODUCTS (EXECUTIVE ORDER 13126). [The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at 22.1503(b).]**

(1) List End Product.

---

 (Insert end product)

---

 (Insert country of origin)

---

 (Insert end product)

---

 (Insert country of origin)

---

 (Insert end product)

---

 (Insert country of origin)

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 (Insert end product)

---

 (Insert country of origin)

---

 (Insert end product)

---

 (Insert country of origin)

**(2) CERTIFICATION. [If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]**

(i) ☐ The offeror will not supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

(ii) ☐ The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that is had made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(FAR 52.212-3/Alternates I/II)  
(JAN 2004/APR 2002/OCT 2000)